

House Bill 1320 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 70<sup>th</sup>, Burkhalter of the 50<sup>th</sup>, Ralston of the 7<sup>th</sup>, Willard of the 49<sup>th</sup>, Rice of the 51<sup>st</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To extensively revise various provisions relating to littering and related environmental  
2 offenses; to provide a short title; to amend Article 2 of Chapter 7 of Title 16 of the Official  
3 Code of Georgia Annotated, relating to criminal trespass and damage to property, so as to  
4 change certain provisions relating to littering public and private property; to change certain  
5 provisions relating to waste control; to provide for impoundment of vehicles involved in  
6 certain littering offenses; to amend Article 1 of Chapter 2 of Title 21 of the Official Code of  
7 Georgia Annotated, relating to general provisions relative to elections and primaries  
8 generally, so as to change certain provisions relating to prohibited placement of campaign  
9 posters, signs, and advertisements; to amend Chapter 8 of Title 12 of the Official Code of  
10 Georgia Annotated, relating to waste management, so as to change certain provisions relating  
11 to definitions relative to solid waste; to provide for reports by the Department of Community  
12 Affairs concerning prevention and abatement of litter; to change certain provisions relating  
13 to definitions relative to hazardous waste management; to change certain provisions relating  
14 to definitions relative to hazardous site response; to amend Title 15 of the Official Code of  
15 Georgia Annotated, relating to courts, so as to provide for jurisdiction of certain courts over  
16 littering offenses; to amend Title 17 of the Official Code of Georgia Annotated, relating to  
17 criminal procedure, so as to provide for trial of certain littering offenses upon a summons or  
18 citation without an accusation; to change certain provisions relating to acceptance of cash  
19 bonds in lieu of statutory bond or recognizance by officers or officials authorized to enforce  
20 the "Litter Control Law"; to amend Chapter 6 of Title 32 of the Official Code of Georgia  
21 Annotated, relating to regulation of maintenance and use of public roads generally, so as to  
22 change certain provisions relating to securing loads on vehicles; to change certain provisions  
23 relating to erection, placement, or maintenance of an unlawful or unauthorized structure and  
24 removal thereof; to change certain provisions relating to littering highways; to amend Article  
25 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to general  
26 provisions relative to municipal courts, so as to provide for jurisdiction over littering  
27 offenses; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor

vehicles and traffic, so as to change certain provisions relating to suspension or revocation of drivers' licenses of habitually negligent or dangerous drivers and the points system; to provide for editorial revisions; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

**SECTION 1-1.**

This Act shall be known and may be cited as the "Comprehensive Litter Prevention and Abatement Act of 2006."

**PART II**

**SECTION 2-1.**

Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to criminal trespass and damage to property, is amended by striking Part 2, relating to littering public and private property, and inserting in lieu thereof the following:

**"Part 2**

16-7-40.

~~This part shall be known and may be cited as the 'Litter Control Law.'~~ Reserved.

16-7-41.

~~Repeated.~~ Reserved.

16-7-42.

As used in this part, the term:

(1) 'Litter' means ~~all discarded sand, gravel, slag, brickbats, rubbish, waste material, tin cans, refuse, garbage, trash, debris, dead animals, or other discarded materials of every kind and description which are not waste as such term is defined in paragraph (6) of Code Section 16-7-51~~ any discarded or abandoned:

(A) Refuse, rubbish, junk, or other waste material; or

(B) Dead animals that are not subject to the provisions of Code Section 4-5-4.

(2) 'Public or private property' means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; ~~and residential or farm properties, timberlands, or forests;~~ or any commercial or industrial property.

16-7-43.

(a) It shall be unlawful for any person or persons to dump, deposit, throw, or leave or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public or private property in this state or any waters in this state, unless:

(1) The ~~property~~ area is designated by the state or by any of its agencies or political subdivisions for the disposal of litter and the person is authorized by the proper public authority to so use such ~~property~~ area;

(2) The litter is placed into a nondisposable litter receptacle or container ~~installed on such property~~ designed for the temporary storage of litter and located in an area designated by the owner or tenant in lawful possession of the property; or

(3) The person is the owner or tenant in lawful possession of such property or has first obtained consent of the owner or tenant in lawful possession or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

~~(b)(1)~~ Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor, ~~and, upon conviction thereof, shall be punished as follows:~~

~~(1) By a fine of not less than \$200.00 nor more than \$1,200.00; and~~

(2) In addition to the punishment provided under paragraph (1) of this subsection:

~~(2)~~(A) In the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right of way for a distance not to exceed one mile any litter the person has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or

(B) In the sound discretion of the judge of the court, the person may be directed to pick up and remove from any public beach, public park, private right of way, or, with the prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that the person has deposited litter, any and all litter deposited thereon by anyone prior to the date of execution of sentence.

(c) The court may publish the names of persons convicted of violating subsection (a) of this Code section.

(d) Any county, municipality, consolidated government, or law enforcement agency thereof of this state which is empowered by Code Section 16-7-45 or other law to enforce the provisions of this Code section or local littering ordinances may, in its discretion, appoint any person who is a citizen of the United States, is of good moral character, and has not previously been convicted of a felony to enforce the provisions of this Code section or local littering ordinances within the county, ~~or municipality,~~ or consolidated government in which the appointing agency exercises jurisdiction. Each person appointed pursuant to this Code section shall take and subscribe an oath of office as prescribed by the appointing authority. Any person appointed and sworn pursuant to this subsection shall be authorized to enforce the provisions of this Code section or local littering ordinances in the same manner as any employee or law enforcement officer of this state or any county, ~~or municipality,~~ or consolidated government of this state subject to the limitations provided in subsections (e) and (f) of this Code section.

(e) No person appointed pursuant to subsection (d) of this Code section shall be deemed a peace officer under the laws of this state or:

(1) Be deemed to be an employee of or receive any compensation from the state, county, municipality, consolidated government, or appointing law enforcement agency;

(2) Be required to complete any training or be certified pursuant to the requirements of Chapter 8 of Title 35;

(3) Have the power or duty to enforce any ~~other~~ traffic or other criminal laws of the state, county, ~~or municipality,~~ or consolidated government;

(4) Have the power to possess and carry firearms and other weapons for the purpose of enforcing the littering laws; or

(5) Be entitled to any indemnification from the state, county, ~~or municipality,~~ or consolidated government for any injury or property damage sustained by such person as a result of attempting to enforce the littering laws of this state or any local government.

(f) Notwithstanding any law to the contrary, neither the state nor any county, municipality, ~~or other political subdivision~~ consolidated government of this state or any department, agency, board, or officer of this state or any county, municipality, ~~or political subdivision~~ consolidated government of this state shall be liable or accountable for or on account of any act or omission of any person appointed pursuant to this Code section in connection with such person's enforcement of the provisions of this Code section or local littering ordinances.

(g) It shall be unlawful for any person willfully to obstruct, resist, impede, or interfere with any person appointed pursuant to this Code section in connection with such person's enforcement of this Code section or local littering ordinances or to retaliate or discriminate

1 in any manner against such person as a reprisal for any act or omission of such person.  
2 Any violation of this subsection shall be punishable as a misdemeanor.

3 16-7-44.

4 (a) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle,  
5 boat, airplane, or other conveyance in violation of Code Section 16-7-43, ~~it shall be~~  
6 ~~prima-facie evidence~~ the trier of fact may in its discretion and in consideration of the  
7 totality of the circumstances infer that the operator of the conveyance has violated this part.

8 (b) Except as provided in subsection (a) of this Code section, whenever any litter which  
9 is dumped, deposited, thrown, or left on public or private property in violation of Code  
10 Section 16-7-43 is discovered to contain any article or articles, including but not limited  
11 to letters, bills, publications, or other writings which display the name of a person thereon  
12 in such a manner as to indicate that the article belongs or belonged to such person, ~~it shall~~  
13 ~~be a rebuttable presumption~~ the trier of fact may in its discretion and in consideration of  
14 the totality of the circumstances infer that such person has violated this part.

15 16-7-45.

16 All law enforcement agencies, officers, and officials of this state or any political  
17 subdivision thereof or any enforcement agency, officer, or any official of any commission  
18 or authority of this state or any political subdivision thereof is authorized, empowered, and  
19 directed to enforce compliance with this part.

20 16-7-46.

21 All public authorities and agencies having supervision of properties of this state are  
22 authorized, empowered, and instructed to establish and maintain receptacles for the deposit  
23 of litter at appropriate locations where the property is frequented by the public, to post  
24 signs directing persons to the receptacles and serving notice of the provisions of this part,  
25 and to otherwise publicize the availability of litter receptacles and requirements of this part.

26 16-7-47.

27 (a) As used in this Code section, the term 'household garbage' means animal, vegetable,  
28 and fruit refuse matter and other refuse matter ordinarily generated as by-products of a  
29 household or restaurant, such as tin cans, bottles, paper, cardboard, plastics, and wrapping  
30 or packaging materials.

(b) The governing authority of each county, municipality, or consolidated government of this state which provides containers for the dumping of trash or garbage therein shall be authorized to designate any or all such containers as being suitable for the dumping therein of household garbage only. If a container is clearly marked 'household garbage only,' it shall be unlawful for any person to dump any refuse or other material into the container other than household garbage.

(c) It shall be unlawful for any person to set fire to the contents of, indiscriminately scatter or disperse the contents of, or otherwise vandalize any containers provided by any county, municipality, or consolidated government for the dumping of trash or garbage.

(d) Any person who violates subsection (b) or (c) of this Code section shall be guilty of a misdemeanor.

16-7-48.

(a) Nothing in this part shall limit the authority of any state agency, county, municipality, or consolidated government to enforce any other laws, rules, or regulations relating to litter.

(b) Nothing within this part shall be construed to prohibit the adoption of local ordinances regulating and controlling litter within the corporate limits of a municipality jurisdiction of any county, municipality, or consolidated government. Violation of such ordinances shall be punished as provided in the municipal charter or local ordinances."

## SECTION 2-2.

Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to criminal trespass and damage to property, is amended by striking Part 3, relating to waste control, and inserting in lieu thereof the following:

### "Part 3

16-7-50.

~~This part shall be known and may be cited as the 'Waste Control Law.'~~ Reserved.

16-7-51.

As used in this part, the term:

(1) 'Biomedical waste' means that term as defined in paragraph (1.1) of Code Section 12-8-22 ~~on January 1, 1993.~~

(2) 'Commercial purpose' means for the purpose of economic gain.

(3) 'Dump' means to throw, discard, place, deposit, discharge, burn, or dispose of a substance.

(6)(4) 'Egregious litter' ~~'Waste'~~ means all discarded substances and materials whatsoever litter, as such term is defined in paragraph (1) of Code Section 16-7-42, exceeding ten pounds in weight or 15 cubic feet in volume; ~~or any such discarded or abandoned substance in any weight or volume if biomedical waste, hazardous waste, or a hazardous substance; or, or any such substance or material dumped for commercial purposes. Such term includes, without limitation, sand, gravel, slag, brickbats, rubbish, waste material, tin cans, refuse, garbage, trash, debris, dead animals, bottles, boxes, containers, papers, tobacco products, tires, appliances, mechanical equipment or parts, building or construction materials, tools, machinery, wood, motor vehicles and motor vehicle parts, vessels, aircraft equipment, waste oil, batteries, antifreeze, sludge from a waste-water treatment facility, water supply treatment plant, or air pollution control facility, air contaminants from any source or facility, and any other discarded material or substance of every kind and description resulting from domestic, industrial, commercial, mining, or governmental operations.~~

(4)(5) 'Hazardous substance' means that term as defined in paragraph (4) of Code Section 12-8-92 ~~on January 1, 1993.~~

(5)(6) 'Hazardous waste' means that term as defined in paragraph (10) of Code Section 12-8-62 ~~on January 1, 1993.~~

16-7-52.

It shall be unlawful for any person to intentionally dump ~~waste~~ egregious litter unless authorized to do so by law or by a duly issued permit:

(1) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right of way thereof, or on any other public lands except in containers or areas lawfully provided for such dumping;

(2) In or on any fresh-water lake, river, canal, or stream or tidal or coastal water of the state; or

(3) In or on any private property, unless prior consent of the owner has been given and unless such dumping will not adversely affect the public health and is not in violation of any other state law, rule, or regulation.

16-7-53.

(a) Any person who intentionally dumps ~~waste~~ egregious litter in violation of Code Section 16-7-52 in an amount not exceeding 500 pounds in weight or 100 cubic feet in volume which is not biomedical waste, hazardous waste, or a hazardous substance and not for commercial purposes shall be guilty of a misdemeanor of a high and aggravated nature.

1 For purposes of this subsection, each day a continuing violation occurs shall constitute a  
2 separate violation.

3 (b) Any person who intentionally dumps ~~waste~~ egregious litter in violation of Code  
4 Section 16-7-52 in an amount exceeding 500 pounds in weight or 100 cubic feet in volume  
5 which is not biomedical waste, hazardous waste, or a hazardous substance and not for  
6 commercial purposes shall upon the first offense be guilty of a misdemeanor of a high and  
7 aggravated nature ~~and shall upon~~. Upon the second and each subsequent offense such  
8 person shall be guilty of a felony and, upon conviction thereof, shall be fined not more than  
9 \$25,000.00 for each violation or imprisoned for not more than ~~two~~ five years, or both;  
10 provided, however, that the portion of any term of imprisonment exceeding two years shall  
11 be probated conditioned upon payment of a fine imposed under this subsection. For  
12 purposes of this subsection, each day a continuing violation occurs shall constitute a  
13 separate violation.

14 (c) Any person who intentionally dumps ~~waste~~ egregious litter in violation of Code Section  
15 16-7-52 in any quantity if the ~~waste~~ substance is biomedical waste, hazardous waste, or a  
16 hazardous substance or if the dumping is for commercial purposes shall be guilty of a  
17 felony and, upon conviction thereof, shall be fined not more than \$25,000.00 for each  
18 violation or imprisoned for not more than ~~two~~ five years, or both; provided, however, that  
19 the portion of any term of imprisonment exceeding two years shall be probated conditioned  
20 upon payment of a fine imposed under this subsection. For purposes of this subsection,  
21 each day a continuing violation occurs shall constitute a separate violation.

22 (d) In addition to the penalties provided in subsections (a) and (b) of this Code section, the  
23 court may order the violator to remove or render harmless any ~~waste~~ egregious litter  
24 dumped in violation of Code Section 16-7-52, repair or restore property damaged by or pay  
25 damages resulting from such dumping, or perform public service related to the removal of  
26 illegally dumped ~~waste~~ egregious litter or to the restoration of an area polluted by such  
27 ~~waste~~ substance.

28 (e)(1) The court shall cause to be published a notice of conviction for each person  
29 convicted of violating any provision of this Code section. Such notices of conviction  
30 shall be published in the manner of legal notices in the legal organ of the county in which  
31 such person resides or, in the case of a nonresident, in the legal organ of the county in  
32 which the person was convicted. Such notice of conviction shall contain the name and  
33 address of the convicted person; date, time, and place of arrest; and disposition of the  
34 case and shall be published once in the legal organ of the appropriate county in the  
35 second week following such conviction or as soon thereafter as publication may be made.



1 (2) The convicted person for which a notice of conviction is published pursuant to this  
2 subsection shall be assessed the cost of publication of such notice, and such assessment  
3 shall be imposed at the time of conviction in addition to any other fine imposed pursuant  
4 to this Code section.

5 (3) The clerk of the court, the publisher of any legal organ which publishes a notice of  
6 conviction, and any other person involved in the publication of an erroneous notice of  
7 conviction shall be immune from civil or criminal liability for such erroneous publication,  
8 provided such publication was made in good faith.

9 16-7-53.1.

10 (a) Whenever a person has been arrested for a violation of Code Section 16-7-52  
11 committed while driving, moving, or operating a vehicle, the arresting law enforcement  
12 agency may impound the vehicle that the person was driving, moving, or operating at the  
13 time of arrest until such time as the arrestee claiming the vehicle meets the conditions for  
14 release in subsection (b) of this Code section or a person other than the arrestee meets the  
15 conditions for release in subsection (c) of this Code section.

16 (b) A vehicle impounded pursuant to this Code section shall not be released unless the  
17 person claiming the vehicle:

18 (1) Presents a valid driver's license, proof of ownership or lawful authority to operate  
19 the motor vehicle, and proof of valid motor vehicle insurance for that vehicle; and

20 (2) Is able to operate the vehicle in a safe manner and would not be in violation of Title  
21 40.

22 (c) A vehicle impounded pursuant to this Code section may be released to a person other  
23 than the arrestee only if:

24 (1) The vehicle is not owned or leased by the person under arrest and the person who  
25 owns or leases the vehicle claims the vehicle and meets the conditions for release in  
26 subsection (b) of this Code section; or

27 (2) The vehicle is owned or leased by the arrestee, the arrestee gives written permission  
28 to another person to operate the vehicle, and the conditions for release in subsection (b)  
29 of this Code section are met.

30 (d) A law enforcement agency impounding a vehicle pursuant to this Code section may  
31 charge a reasonable fee for towing and storage of the vehicle. The law enforcement agency  
32 may retain custody of the vehicle until that fee is paid.

16-7-54.

Whenever any ~~waste~~ egregious litter which is dumped in violation of Code Section 16-7-52 is discovered to contain any article or articles, including but not limited to letters, bills, publications, or other writings which display the name of a person thereon, addressed to such person or in any other manner indicating that the article belongs or belonged to such person, ~~it shall be a rebuttable presumption~~ the trier of fact may in its discretion and in consideration of the totality of the circumstances infer that such person has violated this part.

16-7-55.

(a) Nothing in this part shall limit the authority of any state agency, county, municipality, or consolidated government to enforce any other laws, rules, or regulations relating to ~~waste~~ egregious litter or the management of solid, biomedical, or hazardous waste.

(b) Nothing within this part shall be construed to prohibit the adoption of local ordinances regulating and controlling egregious litter within the jurisdiction of any county, municipality, or consolidated government. Violation of such ordinances shall be punished as provided in the municipal charter or local ordinances.

16-7-56.

Nothing in this part shall be construed so as to repeal, supersede, amend, or modify any provision of Title 12."

### SECTION 2-3.

Article 1 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to general provisions relative to elections and primaries generally, and Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to criminal trespass and damage to property, are amended by striking Code Section 21-2-3, relating to prohibited placement of campaign posters, signs, and advertisements, and inserting in lieu thereof in said Article 2 of Chapter 7 of Title 16 the following:

#### "Part 3A

~~21-2-3~~ 16-7-58.

(a) It shall be unlawful for any person to place ~~campaign~~ posters, signs, ~~and~~ or advertisements:

~~(1) Within the right of way of any public streets, roads, or highways;~~

(2)(1) On any public property or building, unless the owner thereof or the occupier as authorized by such owner has given permission to place such posters, signs, or advertisements on such property; provided, however, that signs within the rights of way of public roads shall be governed by Code Section 32-6-51;

(3)(2) On any private property unless the owner thereof or the occupier as authorized by such owner has given permission to place such ~~campaign~~ posters, signs, and or advertisements on such property; or

(4) ~~Reserved;~~

(5)(3) On any property zoned for commercial or industrial uses if the placement of such ~~campaign~~ posters, signs, and or advertisements conflicts with any zoning laws or ordinances.

(b) Any poster, sign, or advertisement placed in violation of paragraph (1) of subsection (a) of this Code section is declared to be a public nuisance, and the officials having jurisdiction of the public property or building, including without limitation law enforcement officers, may remove or direct the removal of the same.

(c) Each poster, sign, or advertisement placed in violation of this Code section shall constitute a separate offense.

~~(b)(d)~~ Any person who violates this Code section ~~shall be guilty of a misdemeanor~~ shall be punished the same as for littering under Code Section 16-7-43."

### PART III

#### SECTION 3-1.

Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste management, is amended by striking paragraph (1.1) of Code Section 12-8-22, relating to definitions relative to solid waste, and inserting in lieu thereof the following:

"(1.1) 'Biomedical waste' means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated, as further defined in Rule 391-3-4-.15 of the board as such rule existed on January 1, 2006, and other such waste materials."

#### SECTION 3-2.

Said chapter is further amended in Code Section 12-8-31, relating to a solid waste management plan, by adding a new subsection to read as follows:

"(e) By December 31, 2006, and annually thereafter, the Department of Community Affairs, as part of the annual solid waste report required in subsection (d) of this Code section and in cooperation with state agencies and other entities involved in litter prevention or abatement, shall report to the Governor and the General Assembly the status of litter prevention and abatement in this state. The litter report shall include but not be limited to:

- (1) An itemization of expenditures made from the Solid Waste Trust Fund for the prevention and abatement of litter;
- (2) A compilation and analysis of litter prevention, collection, and enforcement efforts;
- (3) An assessment of littering in this state;
- (4) A statement of progress in achieving a litter prevention ethic; and
- (5) Recommendations for improving litter abatement and prevention efforts."

### SECTION 3-3.

Said chapter is further amended by striking paragraph (10) of Code Section 12-8-62, relating to definitions relative to hazardous waste management, and inserting in lieu thereof the following:

"(10) 'Hazardous waste' means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are in force and effect on ~~February 1, 1996~~ January 1, 2006, codified as 40 C.F.R. Section 261.3 and any designated hazardous waste."

### SECTION 3-4.

Said chapter is further amended by striking paragraph (4) of Code Section 12-8-92, relating to definitions relative to hazardous site response, and inserting in lieu thereof the following:

"(4) 'Hazardous substance' means any substance listed on the List of Hazardous Substances and Reportable Quantities, codified as 40 C.F.R., Part 302, Table 302.4, in force and effect on February 1, 1996, or any substance listed on the List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 C.F.R., Part 355, Appendix A, in force and effect on ~~February 1, 1996~~ January 1, 2006."

### SECTION 3-5.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding a new Code section to read as follows:

"15-9-30.7.

(a) Subject to the provisions of subsection (b) of this Code section, in addition to any other jurisdiction vested in the probate courts, such courts shall have the right and power to conduct trials, receive pleas of guilty, and impose sentence upon defendants for violating any provision of Part 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code Section 32-6-51 or 40-6-248.1 that is punishable for its violation as a misdemeanor. Such jurisdiction shall be concurrent with other courts having jurisdiction over such violations.

(b) A probate court shall not have the power to dispose of misdemeanor cases as provided in subsection (a) of this Code section unless the defendant shall first waive in writing a trial by jury. If the defendant does not waive a trial by jury, the defendant shall notify the court and, if reasonable cause exists, the defendant shall be immediately bound over to a court in the county having jurisdiction to try the offense wherein a jury may be impaneled."

### SECTION 3-6.

Said title is further amended by adding a new Code section to read as follows:

"15-10-2.1.

(a) Subject to the provisions of subsection (b) of this Code section, in addition to any other jurisdiction vested in the magistrate courts, such courts shall have the right and power to conduct trials, receive pleas of guilty, and impose sentence upon defendants for violating any provision of Part 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code Section 32-6-51 or 40-6-248.1 that is punishable for its violation as a misdemeanor. Such jurisdiction shall be concurrent with other courts having jurisdiction over such violations.

(b) A magistrate court shall not have the power to dispose of misdemeanor cases as provided in subsection (a) of this Code section unless the defendant shall first waive in writing a trial by jury. If the defendant does not waive a trial by jury, the defendant shall notify the court and, if reasonable cause exists, the defendant shall be immediately bound over to a court in the county having jurisdiction to try the offense wherein a jury may be impaneled."

### SECTION 3-7.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by striking Code Section 17-6-9, relating to acceptance of cash bonds in lieu of statutory bond or recognizance by officers or officials authorized to enforce the "Litter Control Law," and inserting in lieu thereof the following:

"17-6-9.

Any law enforcement officer or official of a political subdivision of this state who is authorized to enforce Part 2 of Article 2 of Chapter 7 of Title 16, ~~the 'Litter Control Law,'~~

and who is authorized by the judge having jurisdiction of the offense to accept cash bonds may accept a cash bond for the personal appearance at trial of the person arrested in lieu of a statutory bond or recognizance. The procedures connected with such cash bonds, including, but not limited to, duties of the arresting officer, forfeiture, distribution of proceeds, and discretion of court as to disposal of the cash bond, shall be the same procedures applicable to arrest by a sheriff for a violation of any litter law."

### SECTION 3-8.

Said title is further amended by adding a new Code section to read as follows:

"17-7-73.

In probate, magistrate, and municipal courts that have jurisdiction over violations of Part 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code Section 32-6-51 or 40-6-248.1 that are punishable as misdemeanors in accordance with Code Section 15-9-30.7, 15-10-2.1, or 36-32-10.3 such offenses may be tried upon a summons or citation with or without an accusation."

### SECTION 3-9.

Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to regulation of maintenance and use of public roads generally, and Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, are amended by striking Code Section 32-6-21, relating to securing loads on vehicles, and inserting in lieu thereof in said Title 40 the following:

~~"32-6-21~~ 40-6-248.1.

(a) As used in this Code section, the term 'litter' has the meaning provided by paragraph (1) of Code Section 16-7-42.

~~(a)~~(a.1) No vehicle shall be driven or moved on any public road unless such vehicle is constructed or loaded or covered so as to prevent any of its load from dropping, escaping, or shifting in such a manner as to ~~create~~;

(1) Create a safety hazard; or

(2) Deposit litter on public or private property while such vehicle is on a public road.

However, this Code section shall not prohibit the necessary spreading of any substance in public road maintenance or construction operations.

(b) No person shall operate or load for operation, on any public road, any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent said covering or load from ~~becoming~~;

1 (1) Becoming loose, detached, or in any manner becoming a hazard to other users of the  
2 public road; or

3 (2) Depositing litter on public or private property while such vehicle is on a public road.

4 (c) Nothing in this Code section nor any regulations based thereon shall conflict with  
5 federal, Georgia Public Service Commission, or Georgia Board of Public Safety regulations  
6 applying to the securing of loads on motor vehicles.

7 (d) The provisions of paragraph (2) of subsection (a) and paragraph (2) of subsection (b)  
8 of this Code section and regulations based thereon shall not apply to ~~vehicles carrying~~  
9 organic debris that escapes during the transportation of silage from field or farm to storage  
10 and storage to feedlot or ~~vehicles or equipment carrying unginmed cotton~~ during the  
11 transportation of agricultural or farm products or silvicultural products from farm or forest  
12 to a processing plant or point of sale or use."

### 13 SECTION 3-10.

14 Said chapter is further amended by striking Code Section 32-6-51, relating to erection,  
15 placement, or maintenance of unlawful or unauthorized structure and removal thereof, and  
16 inserting in lieu thereof the following:

17 "32-6-51.

18 (a)(1) It shall be unlawful for any person to erect, place, or maintain within the dedicated  
19 right of way of any public road any sign, signal, or other device except as authorized by  
20 this subsection or subsection (d) of this Code section or as required or authorized by Code  
21 Section 32-6-50 or any other law.

22 (2) The erection, placement, and maintenance of signs within the dedicated rights of way  
23 of county roads or municipal streets may be authorized and governed by ordinances  
24 adopted by governing authorities of counties and municipalities having jurisdiction over  
25 such roads or streets, which ordinances as to such dedicated rights of way of county roads  
26 or municipal streets may be as or less restrictive than the provisions of paragraph (1) of  
27 this subsection.

28 (b) It shall be unlawful for any person to erect, place, or maintain in a place or position  
29 visible from any public road any unauthorized sign, signal, device, or other structure which:

30 (1) Imitates, resembles, or purports to be an official traffic-control device;

31 (2) Hides from view or interferes with the effectiveness of any official traffic-control  
32 device;

(3) Obstructs a clear view from any public road to any other portion of such public road, to intersecting or adjoining public roads, or to property abutting such public road in such a manner as to constitute a hazard to traffic on such roads; or

(4) Because of its nature, construction, or operation, constitutes a dangerous distraction to or interferes with the vision of drivers of motor vehicles.

(c) Any sign, signal, device, or other structure erected, placed, or maintained on the dedicated right of way of any public road in violation of subsection (a) or (b) of this Code section or in violation of any ordinance adopted pursuant to subsection (a) of this Code section is declared to be a public nuisance, and the officials having jurisdiction of the public road affected may remove or direct the removal of the same. Where any sign, signal, device, or other structure is erected, placed, or maintained in violation of subsection (b) of this Code section, but not on the dedicated right of way of any public road, the officials having jurisdiction of the public road affected may order the removal of such structure by written notice to the owner of the structure or the owner of the land on which the structure is located. If such structure is not removed within 30 days after the giving of such order of removal, such officials are authorized to remove or cause to be removed such structure and to submit a statement of expenses incurred in the removal to the owner of the structure or to the owner of the land on which the structure is located. If payment or arrangement to make payment is not made within 60 days after the receipt of said statement, the department shall certify the amount thereof for collection to the Attorney General.

(d)(1) As used in this subsection, the term:

(A) 'Bus shelter' means a shelter or bench located at bus stops for the convenience of passengers of public transportation systems owned and operated by governmental units or public authorities or located on county or municipality rights of way for the convenience of residents.

(B) 'Commercial ~~advertisement~~ advertisements' means a any printed or painted sign ~~encouraging or promoting the purchase or use of goods or services but does not include campaign posters, signs, or advertisements prohibited by Code Section 21-2-3~~ signs on a bus shelter for which space has been rented or leased from the owner of such shelter.

(2) Bus shelters, including those on which commercial advertisements are placed, may be erected and maintained on the rights of way of public roads subject to the following conditions and requirements:

(A) Any public transit system wishing to erect and maintain a bus shelter on the right of way of a state road shall apply to the department for a permit, and as a condition of the issuance of the permit, the department must approve the bus shelter building plans and the location of the bus shelter on the right of way; provided, however, that such



1 approval is subject to any and all restrictions imposed by Title 23, U.S.C., and Title 23,  
2 Code of Federal Regulations relating to the federal-aid system. This paragraph shall  
3 entitle only public transit systems or their designated agents the right to be issued  
4 permits under this paragraph;

5 (B) If the bus shelter is to be located on the right of way of a public road other than a  
6 state road within a county or municipality, application for permission to erect and  
7 maintain such shelter shall be made to the respective county or municipality. Such  
8 application shall conform to the county's and municipality's regulations governing the  
9 erection and maintenance of such structures. When the county or municipality is served  
10 by a public transit agency or authority, the applications for all bus shelters on routes of  
11 such agency or authority shall also be forwarded by the applicant to such transit agency  
12 or authority and subject to the approval of such agency or authority; and

13 (C) As a condition of issuing a permit for the erection of a bus shelter on the right of  
14 way of a state road, the department shall require that the bus shelter shall be properly  
15 maintained and that its location shall meet minimum setback requirements as follows:

16 (i) Where a curb and gutter are present, there shall be a minimum of four feet  
17 clearance from the face of the curb to any portion of the bus shelter or the bus shelter  
18 shall be placed at the back of the existing concrete sidewalk; or

19 (ii) Where no curb or gutter is present, the front of the bus shelter shall be at least ten  
20 feet from the edge of the main traveled roadway.

21 (3) Any bus shelter erected and maintained on the right of way of a public road in  
22 violation of paragraph (2) of this subsection or in violation of the conditions of the permit  
23 issued by the department or in violation of the conditions of the consent of the county or  
24 municipality is declared to be a public nuisance and if it is determined to be a hazard to  
25 public safety by the department, county, or municipality, it may be removed or its removal  
26 may be ordered by the department or the governing authority of the respective county or  
27 municipality. In every case of removal of a bus shelter as a hazard to public safety by the  
28 department, a county, or a municipality, a good faith attempt shall be made to notify the  
29 owner of its removal. In such cases where the department, county, or municipality orders  
30 the removal of the bus shelter as a public nuisance, if such a bus shelter is not removed  
31 by its owner within 30 days after its owner has been issued a written order of removal by  
32 the department or the governing authority of the respective county or municipality, the  
33 department or the governing authority of the respective county or municipality may cause  
34 the bus shelter to be removed and submit a statement of expenses incurred in the removal  
35 to the owner of the bus shelter. In the case of a statement of expenses for removal of a  
36 shelter on a state road, if payment or arrangement to make payment is not made within

60 days after the receipt of such statement, the department shall certify the amount thereof to the Attorney General for collection.

(4) The person to whom a permit has been issued for the erection and maintenance of a bus shelter on the right of way of a public road or who places such shelter on a public road other than a state road shall at all times assume all risks for the bus shelter and shall indemnify and hold harmless the State of Georgia, the department, and any county or municipality against all losses or damages resulting solely from the existence of the bus shelter.

(5) Permits for shelters on state roads shall be issued under this subsection only to cities, counties, or public transportation authorities owning or operating public transportation systems or their designated agents.

(e) Each sign erected, placed, or maintained in violation of paragraph (1) of subsection (a) of this Code section shall constitute a separate offense.

(f) Any person who violates paragraph (1) of subsection (a) of this Code section shall be punished the same as for littering under Code Section 16-7-43. Any person who violates subsection (b) of this Code section shall be guilty of a misdemeanor."

### SECTION 3-11.

Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions relative to municipal courts, is amended by adding a new Code section to read as follows:

"36-32-10.3.

(a) Subject to the provisions of subsection (b) of this Code section, in addition to any other jurisdiction vested in the municipal courts, such courts shall have the right and power to conduct trials, receive pleas of guilty, and impose sentence upon defendants for violating any provision of Part 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code Section 32-6-51 or 40-6-248.1 that is punishable for its violation as a misdemeanor. Such jurisdiction shall be concurrent with other courts having jurisdiction over such violations.

(b) A municipal court shall not have the power to dispose of misdemeanor cases as provided in subsection (a) of this Code section unless the defendant shall first waive in writing a trial by jury. If the defendant does not waive a trial by jury, the defendant shall notify the court and, if reasonable cause exists, the defendant shall be immediately bound over to a court in the county having jurisdiction to try the offense wherein a jury may be impaneled."

**SECTION 3-12.**

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-5-57, relating to suspension or revocation of drivers' licenses of habitually negligent or dangerous drivers and the points system, by striking subparagraph (c)(1)(A) and inserting in lieu thereof the following:

"(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:

Aggressive driving.....	6 points
Reckless driving.....	4 points
Unlawful passing of a school bus.....	6 points
Improper passing on a hill or a curve.....	4 points
Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour.....	2 points
Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour.....	3 points
Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour.....	4 points
Exceeding the speed limit by 34 miles per hour or more.....	6 points
Disobedience of any traffic-control device or traffic officer.....	3 points
Too fast for conditions.....	0 points
Possessing an open container of an alcoholic beverage while driving.....	2 points
Failure to adequately secure a load, except fresh farm produce, resulting in loss of such load onto the roadway which results in an accident.....	2 points
Violation of child safety restraint requirements, first offense.....	1 point
Violation of child safety restraint requirements, second or subsequent offense.....	2 points
All other moving traffic violations which are not speed limit violations.....	3 points"

**SECTION 3-13.**

Said title is further amended by striking Code Section 40-6-249, relating to littering highways, and inserting in lieu thereof the following:

"40-6-249.

~~A person~~ Any person littering a highway in violation of Part 2 of Article 2 of Chapter 7 of Title 16, ~~the 'Litter Control Law,'~~ or driving, moving, or loading for operation a vehicle in

1 violation of Code Section 40-6-248.1 shall be guilty of a misdemeanor and, upon  
2 conviction thereof, shall be punished as provided in Code Section 16-7-43."

3 **PART IV**

4 **SECTION 4-1.**

5 The Official Code of Georgia Annotated is amended by reserving the following former  
6 designations:

7 (1) Code Section 32-6-21; and

8 (2) Code Section 21-2-3.

9 **PART V**

10 **SECTION 5-1.**

11 This Act shall become effective upon its approval by the Governor or upon its becoming law  
12 without such approval for purposes of adopting local ordinances to become effective on or  
13 after July 1, 2006; and for all other purposes, this Act shall become effective on July 1, 2006.

14 **SECTION 5-2.**

15 All laws and parts of laws in conflict with this Act are repealed.